

## REMARKS

This Response is responsive to the Office Action dated November 2, 2004. Claims 1-21 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter because, according to the Patent Examiner “claims 1 and 5 (and respectively 2-4, 6-21), recite a ‘network element’ comprising a ‘an algorithm . . .’.” The Patent Examiner also contends that the claim language “appears to be software method claim language that is non-statutory per se.”

Claims 21-22 stand rejected under 35 U.S.C. § 101 because, according to the Examiner, “the claimed invention is directed to non-statutory subject matter” because “claims 21,22 recite a ‘network element’ comprising a ‘ . . . software program . . .’.”

Claims 1-7, 16-18, 21-26, 34 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Cromer et al, U.S. Patent 6,609,207B1.

Claims 8-15, 19, 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cromer et al, U.S. Patent 6,609,207 B1.

Claims 27-33, 35-36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cromer et al, U.S. Patent 6,609,207 B1, and further in view of Mufic, U.S. Patent 5,943,423.

Claims 23 & 34 have been amended and claims 35 and 36 have been cancelled. The applicants hereby request reconsideration of this application in view of the preceding amendments and the remarks that follow.

### **Rejection of Claims 1-22 under 35 U.S.C. § 101**

The patent applicant traverses the Examiner’s rejection of claims 1-22 under 35 U.S.C. § 101. The “Examination Guidelines for Computer-Related Inventions - Final Version” published by the USPTO, recites the following on page 9:

“Computer programs are often recited as part of a claim. Office personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence non-statutory.”

It is submitted that claims 1 and 5 (and the claims dependent thereon) as a whole relate to a statutory subject matter and the claims remain statutory irrespective of the fact that “an algorithm” limitation is included in the claims. Claim 1 (and the claims dependent thereon) is clearly an apparatus claim. For example, the claimed “network element,” “system processor” and “memory” comprise hardware. Claim 1 taken as a whole is not directed to a mere program listing and therefore comprises statutory subject matter. Similarly, claim 5 (and the claims dependent thereon) is clearly an apparatus claim and is directed to statutory subject matter. The claimed “node element,” “system processor” and “memory”, for example, comprise hardware. In addition, the USPTO has issued other patents that incorporate the algorithm limitation (e.g. US 6,848,015 Jones or US 6,854,013 Cable, et al.).

#### **Claim Rejection under U.S.C. § 102**

The applicant submits that claims 1-7, 16-18, 21-26, 34 are patentable over Cromer et al, U.S. Patent 6,609,207 B1. Claim 23 has been amended by incorporation of limitation related to the network element. Claim 34 has been amended by incorporation of the features of dependent claims 35 and 36. In consequence claims 35 and 36 have been deleted.

Cromer discloses a processing system comprising a docking station and a portable computer capable of being connected to the docking station and a method of securing the docking station, the portable computer and the attachment of the portable computer to the docking station. Cromer

introduces a group of passwords, which must be entered and match the passwords stored in the portable computer or the docking station in order to enable certain operations. Failure to enter the correct password results in disabling the portable computer or the docking station.

Independent claims 1, 5, 23, 27, 28, and 34 describe a method and apparatus for enabling and disabling features of an element of a communications network by means of software keys (softkeys), wherein the softkey to enable or disable the feature is entered outside the network element (see e.g., line 5 of claim 1). The softkey once entered is transmitted over the network to the network element and if the received softkey value matches the softkey value stored in the network element a network feature can be enabled or disabled.

It is neither disclosed nor suggested by Cromer that the passwords used to enable certain features of the portable computer or the docking station may be transmitted to these elements via a network. In view of the foregoing amendment and remarks, it is submitted that independent claims 1, 5, 23 (as amended), 27, 28, and 34 (as amended) and the claims dependent thereon should be allowed. The dependent claims provide further patentable distinctions over the applied reference. In view of the foregoing remarks, it is submitted that independent claims 1, 5, 23, 27, 28, and 34 and the claims dependent thereon should be allowed. The dependent claims provide further patentable distinctions over the applied reference.

In addition independent claims 1, 5, 23 (as amended), 27, 28, and 34 (as amended) introduces the concept of disposable softkeys – i.e. once the softkey value is used it is not re-used for that network feature. For example, claim 1 recites “... the softkey validation system also being operable to enable the use of the first network feature a second time, after the first network feature has been deactivated, when the received softkey value is the same as a second valid softkey value, wherein the first valid softkey value is not the same as the second valid softkey value, ...”. When

the first network feature has been enabled using a first softkey value and then disabled it can be subsequently (i.e. second time) enabled only with use of the second softkey value. It means the softkey value can be used only once.

Cromer does not teach and there is no suggestion in Cromer regarding the use of disposable softkeys. In view of the foregoing amendment and remarks, it is submitted that independent claims 1, 5, 23 (as amended) , 27, 28, and 34 (as amended) and the claims dependent thereon should be allowed. The dependent claims provide further patentable distinctions over the applied reference.

#### **Claim Rejection under U.S.C. § 103**

The applicant submits that claims 8-15, 19, 20 are patentable under 35 U.S.C. § 103(a) over Cromer. It is neither disclosed nor suggested by Cromer that the passwords used to enable certain features of the portable computer or the docking station may be transmitted to these elements via a network. Moreover, Cromer does not teach and there is no suggestion in Cromer regarding the use of disposable softkeys. In view of the foregoing remarks, it is submitted that claims 8-15, 19, 20 are patentable over Cromer and should be allowed.

The applicant submits that claims 27-33 are patentable under 35 U.S.C. § 103(a) over Cromer and further in view of Mufic. Neither Cromer nor Mufic teach and there is no suggestion in Cromer or Mufic regarding the use of disposable softkeys. In view of the foregoing remarks, it is submitted that claims 27-33 should be allowed.

#### **Conclusions**

In view of the amendments and remarks, it is believed that claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If any further

action by the applicants is necessary, the Examiner is respectfully requested to contact the applicants' attorney at the phone number listed below.

The Commissioner is hereby authorized to charge any additional fees required by this response to the Jones Day Deposit Account #501432, reference 560043-670106.

Respectfully submitted,

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